

(d) If, as the result of a default, the surety on a Mineral Lease Bond makes payment to the United States of any indebtedness under a lease secured by the bond, the face amount of such bond and the surety's liability shall be reduced by the amount of such payment.

(e) If any bond has been reduced by any amount as the result of payment for default, the lessee must post a new bond in at least the amount of the original face value of the reduced bond within 6 months or such shorter period of time as the authorized officer may direct after a default. If the reduced bond is an individual lease bond, the lessee or operator may replace it with an areawide bond as provided in paragraph (a) of this section or §256.61 (a)(2) or (b)(2) of this part. Failure to post such a new bond shall, at the discretion of the authorized officer, be the basis of cancellation of the lease(s) covered by the defaulted bond.

(f) U.S. Department of the Treasury (U.S. Treasury) securities (U.S. Bonds or Notes) may be submitted in lieu of a bond, provided the U.S. Treasury instrument or legal tender submitted is negotiable at the time of submission for an amount of cash equal to the value of the required bond.

(g) The authorized officer may approve the submission of alternate types of securities or collateral in lieu of the surety bonds required by this section if:

(1) The authorized officer determines that the interests of the Government are protected to the same extent that these interests would be protected by a surety bond, and

(2) The substitute security instrument is not limited in its term and is not revocable.

(h) With the approval of the Secretary, the Director may provide at the time of the notice of lease sale that (1) the successful bidder for a lease where payment of any part of the cash bonus has been deferred pursuant to 43 U.S.C. 1337(a)(2), as implemented by 30 CFR 256.32(d), shall furnish the authorized officer a corporate surety bond in the amount of the cash bonus deferred conditioned on payment of the cash bonus deferred according to the notice of lease sale; and (2) the high bidder for a lease where the decision to accept the high bid has been deferred, pursuant to 43 U.S.C. 1337(a)(1), as implemented by 30 CFR 256.47(e)(2), shall furnish the authorized officer a corporate surety bond in the amount of the bid not already remitted, conditioned on payment of the yet to be remitted amount after the bidder has been notified that his high bid has been accepted, within the time specified in the notice of lease sale.

#### § 256.53 Additional bonds.

(a) This paragraph explains what bonds the lessee must provide before lease exploration activities commence.

(1)(i) You must furnish the Regional Director a \$200,000 bond that guarantees compliance with all the terms and conditions of the lease by the earliest of:

(A) The date you submit a proposed Exploration Plan (EP) for approval;

(B) The date you submit a request for approval of the assignment of a lease on which an EP has been approved; or

(C) December 8, 1997, for any lease for which an EP has been approved.

(ii) The Regional Director may authorize you to submit the \$200,000 lease exploration bond after you submit an EP but before he/she approves drilling activities under the EP.

(iii) You may satisfy the bond requirement of this paragraph (a) by providing a new bond or by increasing the amount of your existing bond.

(2) A \$200,000 lease exploration bond pursuant to paragraph (a)(1) of this section need not be submitted and maintained if the lessee either:

(i) Furnishes and maintains an areawide bond in the sum of \$1 million issued by a qualified surety and conditioned on compliance with all the terms and conditions of oil and gas and sulphur leases held by the lease on the OCS for the area in which the lessee is situated; or

(ii) Furnishes and maintains a bond pursuant to paragraph (b)(2) of this section.

(b) This paragraph explains what bonds you (the lessee) must provide before lease development and production activities commence.

(1)(i) You must furnish the Regional Director a \$500,000 bond that guarantees compliance with all the terms and conditions of the lease by the earliest of:

(A) The date you submit a proposed Development and Production Plan (DPP) or Development Operations Coordination Document (DOCD) for approval;

(B) The date you submit a request for approval of the assignment of a lease on which a DPP or DOCD has been approved; or

(C) December 8, 1997, for any lease for which a DPP or DOCD has been approved.

(ii) The Regional Director may authorize you to submit the \$500,000 lease

development bond after you submit a DPP or DOCD, but before he/she approves the installation of a platform or the commencement of drilling activities under the DPP or DOCD.

(iii) You may satisfy the bond requirement of this paragraph by providing a new bond or by increasing the amount of your existing bond.

(2) The lessee need not submit and maintain a \$500,000 lease development bond pursuant to paragraph (b)(1) of this section if the lessee furnishes and maintains an areawide bond in the sum of \$3 million issued by a qualified surety and conditioned on compliance with all the terms and conditions of oil and gas and sulphur leases held by the lessee on the OCS for the area in which the lease is situated.

(c) When a lessee can demonstrate to the satisfaction of the authorized officer that wells and platforms can be abandoned and removed and the drilling and platform sites cleared of obstructions for less than the amount of lease bond coverage required under paragraph (b)(1) of this section, the authorized officer may accept a lease surety bond in an amount less than the prescribed amount but not less than the amount of the cost for well abandonment, platform removal, and site clearance.

(d) The Regional Director may determine that additional security (i.e., security above the amounts prescribed in §§256.52(a) and 256.53 (a) and (b) of this part) is necessary to ensure compliance with the obligations under your lease and the regulations in this chapter.

(1) The Regional Director's determination will be based on his/her evaluation of your ability to carry out present and future financial obligations demonstrated by:

(i) Financial capacity substantially in excess of existing and anticipated lease and other obligations, as evidenced by audited financial statements (including auditor's certificate, balance sheet, and profit and loss sheet);

(ii) Projected financial strength significantly in excess of existing and future lease obligations based on the estimated value of your existing OCS lease production and proven reserves of future production;

(iii) Business stability based on 5 years of continuous operation and production of oil and gas or sulphur in the OCS or in the onshore oil and gas industry;

(iv) Reliability in meeting obligations based on:

(A) Credit rating(s); or

(B) Trade references, including names and addresses of other lessees, drilling contractors, and suppliers with whom you have dealt; and

(v) Record of compliance with laws, regulations, and lease terms.

(2) You may satisfy the Regional Director's demand for additional security by increasing the amount of your existing bond or by providing a supplemental bond or bonds.

(e) The Regional Director will determine the amount of supplemental bond required to guarantee compliance. The Regional Director will consider potential underpayment of royalty and cumulative obligations to abandon wells, remove platforms and facilities, and clear the seafloor of obstructions in the Regional Director's case-specific analysis.

(f) If your cumulative potential obligations and liabilities either increase or decrease, the Regional Director may adjust the amount of supplemental bond required.

(1) If the Regional Director proposes an adjustment, the Regional Director will:

(i) Notify you and the surety of any proposed adjustment to the amount of bond required; and

(ii) Give you an opportunity to submit written or oral comment on the adjustment.

(2) If you request a reduction of the amount of supplemental bond required, you must submit evidence to the Regional Director demonstrating that the projected amount of royalties due the Government and the estimated costs of lease abandonment and cleanup are less than the required bond amount. If the Regional Director finds that the evidence you submit is convincing, he/she may reduce the amount of supplemental bond required.

[58 FR 45262, Aug. 27, 1993. Redesignated and amended at 62 FR 27956, May 22, 1997]

EFFECTIVE DATE NOTE: At 62 FR 27956, May 22, 1997, §256.61 was redesignated as §256.53 of

subpart I; introductory texts were added to paragraphs (a) and (b); paragraphs (a)(1), (b)(1), and (d) were revised; and paragraphs (e) and (f) were added, effective Aug. 20, 1997. For the convenience of the user, the superseded text is set forth as follows:

**§ 256.61 Additional bonds.**

(a)(1) A surety bond in the amount of \$200,000 issued by a qualified surety, and conditioned on compliance with all the terms and conditions of the lease, shall be furnished to the authorized officer with a proposed Exploration Plan (EP) or a proposed assignment of a lease with an approved EP submitted for approval on or after November 26, 1993. Approval of the EP or assignment shall be conditioned upon receipt of a lease surety bond in the amount of \$200,000, unless the authorized officer, for good cause, authorizes the submission of the \$200,000 lease exploration bond after the submission of the EP but prior to approval of drilling activities under the approved EP. This bond coverage may be provided by increasing the bond coverage provided pursuant to § 256.58(a) of this part.

\* \* \* \* \*

(b)(1) A surety bond in the amount of \$500,000 issued by a qualified surety and conditioned on compliance with all the terms and conditions of the lease shall be furnished to the authorized officer with a proposed Development and Production Plan (DPP), Development Operations Coordination Document (DOCD), or a proposed assignment of a lease with an approved DPP or DOCD submitted for approval on or after November 26, 1993. Approval of a DPP, DOCD, or assignment of a lease with an approved DPP or DOCD shall be conditioned on receipt of a lease surety bond in the amount of \$500,000, unless the authorized officer, for good cause, authorizes the submission of the \$500,000 lease development bond after the submission of the DPP or DOCD but prior to the approval of platform installation or drilling activities under the approved DPP or DOCD. The lessee may provide this additional bond by submission of a new bond or by increasing the lease bond coverage of \$200,000 provided under paragraph (a) of this section.

\* \* \* \* \*

(d) The authorized officer may require additional security (i.e., security over and above the amounts prescribed in §§ 256.58(a) and 256.61 (a), (b), and (c) of this part) in the form of a supplemental bond or bonds or increased amount of coverage of an existing surety bond if the authorized officer deems such additional security necessary to cover royalty due the Government or costs and li-

abilities of the lessee for regulatory compliance, e.g., abandonment of wells, removal of platforms, and clearance of equipment and facilities from the lease once production ceases and the lease expires. The authorized officer shall base the decision on an evaluation of the ability of the lessee to carry out its present and future financial obligations, as demonstrated by factors such as:

(1) Financial capacity of the lessee substantially in excess of existing and anticipated lease and other obligations (including but not limited to well abandonment, platform removal, and royalty due to the Government) as evidenced by audited financial statements including auditor's certificate, balance sheet, and profit and loss sheet;

(2) Projected financial strength as evidenced by existing OCS production and proven reserves of future production valued significantly in excess of existing and future obligations;

(3) Business stability as evidenced by years of successful operation in the OCS or in the oil and gas industry;

(4) Reliability in meeting obligations as evidenced by credit ratings and trade references (for which purpose a lessee shall upon request furnish a list of the names and addresses of lessees, drilling contractors, and suppliers with whom it has dealt); and

(5) Record of compliance with laws, regulations, and lease terms.

**§ 256.54 General requirements for bonds.**

(a) Any bond or other security that you, as lessee or operator, provide under this part must:

(1) Be payable upon demand to the Regional Director;

(2) Guarantee compliance with all of your obligations under the lease and regulations in this chapter; and

(3) Guarantee compliance with the obligations of all lessees, operating rights owners and operators on the lease.

(b) All bonds and pledges you furnish under this part must be on a form or in a form approved by the Associate Director for Offshore Minerals Management. Surety bonds must be issued by a surety that the Treasury certifies as an acceptable surety on Federal bonds and that is listed in the current Treasury Circular No. 570. You may obtain a copy of the current Treasury Circular No. 570 from the Surety Bond Branch, Financial Management Service, Department of the Treasury, East-West Highway, Hyattsville, MD 20782.